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State and Local Fiscal Assistance Act of 1972

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TO THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

RUSSELL B. LONG, *Chairman*

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TITLE I—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Subtitle A—Allocation and Payment of Funds

SEC. 101. SHORT TITLE.

This title may be cited as the "State and Local Fiscal Assistance Act of 1972".

SEC. 102. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

Except as otherwise provided in this title, the Secretary shall, for each entitlement period, pay out of the Trust Fund to—

(1) each State government a total amount equal to the entitlement of such State government determined under section 107 for such period, and

(2) each unit of local government a total amount equal to the entitlement of such unit determined under section 108 for such period.

In the case of entitlement periods ending after the date of the enactment of this Act, such payments shall be made in installments, but not less often than once for each quarter, and, in the case of quarters ending after September 30, 1972, shall be paid not later than 5 days after the close of each quarter. Such payments for any entitlement period may be initially made on the basis of estimates. Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this subtitle were in excess of or less than the amounts required to be paid.

[SEC. 103. USE OF FUNDS BY LOCAL GOVERNMENTS FOR PRIORITY EXPENDITURES.

[(a) IN GENERAL.—Funds received by units of local government under this subtitle may be used only for priority expenditures. For purposes of this title, the term "priority expenditures" means only—

[(1) ordinary and necessary maintenance and operating expenses for—

[(A) public safety (including law enforcement, fire protection, and building code enforcement),

[(B) environmental protection (including sewage disposal, sanitation, and pollution abatement),

[(C) public transportation (including transit systems and streets and roads),

[(D) health,

[(E) recreation,

[(F) libraries,

[(G) social services for the poor or aged, and

[(H) financial administration; and

[(2) ordinary and necessary capital expenditures authorized by law.

[(b) CERTIFICATES BY LOCAL GOVERNMENTS.—The Secretary is authorized to accept a certification by the chief executive officer of a unit of local government that the unit of local government has used the funds received by it under this subtitle for an entitlement period only for priority expenditures, unless he determines that such certification is not sufficiently reliable to enable him to carry out his duties under this title.

[SEC. 104. PROHIBITION ON USE AS MATCHING FUNDS BY STATE OR LOCAL GOVERNMENTS.

[(a) IN GENERAL.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under this subtitle as a contribution for the purpose of obtaining Federal funds under any law of the United States which requires such government to make a contribution in order to receive Federal funds.

[(b) DETERMINATIONS BY SECRETARY OF THE TREASURY.—If the Secretary has reason to believe that a State government or unit of local government has used funds received under this subtitle in violation of subsection (a), he shall give reasonable notice and opportunity for hearing to such government. If, thereafter, the Secretary of the Treasury determines that such government has used funds in violation of subsection (a), he shall notify such government of his determination and shall request repayment to the United States of an amount equal to the funds so used. To the extent that such government fails to repay such amount, the Secretary shall withhold from subsequent payments to such government under this subtitle an amount equal to the funds so used.

[(c) INCREASED STATE OR LOCAL GOVERNMENT REVENUES.—No State government or unit of local government shall be determined to have used funds in violation of subsection (a) with respect to any funds received for any entitlement period to the extent that the net revenues received by it from its own sources during such period exceed the net revenues received by it from its own sources during the one-year period beginning July 1, 1971 (or one-half of such net revenues, in the case of an entitlement period of 6 months).

[(d) DEPOSITS AND TRANSFERS TO GENERAL FUND.—Any amount repaid by a State government or unit or local government under subsection (b) shall be deposited in the general fund of the Treasury. An amount equal to the reduction in payments to any State government or unit of local government which results from the application of this section (after any judicial review under section 143) shall be transferred from the Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

[(e) CERTIFICATES BY STATE AND LOCAL GOVERNMENTS.—The Secretary is authorized to accept a certification by the Governor of a State or the chief executive officer of a unit of local government that the State government or unit of local government has not used any funds received by it under this subtitle for an entitlement period in violation of subsection (a); unless he determines that such certification is not sufficiently reliable to enable him to carry out his duties under this title.]

SEC. 105. CREATION OF TRUST FUND; APPROPRIATIONS; *AUTHORIZATIONS FOR ENTITLEMENTS.*

(a) TRUST FUND.—

(1) IN GENERAL.—There is hereby established on the books of the Treasury of the United States a trust fund to be known as the "State and Local Government Fiscal Assistance Trust Fund" (referred to in this subtitle as the "Trust Fund"). The Trust Fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b) *or in an appropriation act.* Except as provided in this title, amounts in the Trust Fund may be used only for the payments to State and local governments provided by this subtitle.

(2) TRUSTEE.—The Secretary of the Treasury shall be the trustee of the Trust Fund and shall report to the Congress not later than [March 1] *January 15* of each year on the operation and status of the Trust Fund during the preceding fiscal year.

(b) APPROPRIATIONS.—

(1) IN GENERAL.—There is appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated—

(A) for the period beginning January 1, 1972, and ending June 30, 1972, $2,650,000,000;

(B) for the period beginning July 1, 1972, and ending December 31, 1972, $2,650,000,000;

(C) for the period beginning January 1, 1973, and ending June 30, 1973, $2,987,500,000;

(D) for the fiscal year beginning July 1, 1973, $6,050,000,000;

(E) for the fiscal year beginning July 1, 1974, $6,200,000,000;

(F) for the fiscal year beginning July 1, 1975, $6,350,000,000; and

(G) for the period beginning July 1, 1976, and ending December 31, 1976, $3,325,000,000.

(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There is appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated—

(A) for the period beginning January 1, 1972, and ending June 30, 1972, $2,390,000;

(B) for the period beginning July 1, 1972, and ending December 31, 1972, $2,390,000;

(C) for the period beginning January 1, 1973, and ending June 30, 1973, $2,390,000;

(D) for each of the fiscal years beginning July 1, 1973, July 1, 1974, and July 1, 1975, $4,780,000; and

(E) for the period beginning July 1, 1976, and ending December 31, 1976, $2,390,000.

(3) DEPOSITS.—Amount appropriated by paragraph (1) or (2) for any fiscal year or other period shall be deposited in the Trust Fund on the later of (A) the first day of such year or period, or (B) the day after the day of enactment of this Act.

(c) *AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—*

(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

(B) for the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,650,000,000.

(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000.

[(c)](*d*) TRANSFERS FROM TRUST FUND TO GENERAL FUND.—The Secretary shall from time to time transfer from the Trust Fund to the general fund of the Treasury any moneys in the Trust Fund which he determines will not be needed to make payments to State governments and units of local government under this subtitle.

SEC. 106. ALLOCATION AMONG STATES.

[(a) IN GENERAL.—There shall be allocated to each State for each entitlement period, out of amounts appropriated under section 105 (b) (1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under this section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).]

(*a*) *IN GENERAL.—There shall be allocated an entitlement to each State—*

(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b) (1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c) (1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).

(b) DETERMINATION OF ALLOCABLE AMOUNT.—

(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if the amount

allocable to it under paragraph (3) is greater than the sum of the amounts allocable to it under paragraph (2) and subsection (c).

(2) THREE FACTOR FORMULA.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to $5,300,000,000 as—

(A) the population of that State, multiplied by the general tax effort factor of that State, multiplied by the relative income factor of that State, bears to

(B) the sum of the products determined under subparagraph (A) for all States.

(3) FIVE FACTOR FORMULA.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount to which that State would be entitled if—

(A) ⅓ of $3,500,000,000 were allocated among the States on the basis of population,

(B) ⅓ of $3,500,000,000 were allocated among the States on the basis of urbanized population,

(C) ⅓ of $3,500,000,000 were allocated among the States on the basis of population inversely weighted for per capita income,

(D) ½ of $1,800,000,000 were allocated among the States on the basis of income tax collections, and

(E) ½ of $1,800,000,000 were allocated among the States on the basis of general tax effort.

(c) NONCONTIGUOUS STATES ADJUSTMENT.—

(1) IN GENERAL.—In addition to amounts allocated among the States under subsection (a), there shall be allocated for each entitlement period, out of amounts appropriated under [section 105 (b)(2)] *subsection (b)(2) or (c)(2) of section 105*, an additional amount to any State (A) whose allocation under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection and (B) in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code.

(2) DETERMINATION OF AMOUNT.—The additional amount allocable to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If the total amount appropriated under section 105(b)(2) for any entitlement period *ending on or before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977*, is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.

SEC. 107. ENTITLEMENTS OF STATE GOVERNMENTS.

(a) DIVISION BETWEEN STATE AND LOCAL GOVERNMENTS.—The State government shall be entitled to receive one-third of the amount

allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 108.

(b) STATE MUST MAINTAIN TRANSFERS TO LOCAL GOVERNMENT.—

(1) GENERAL RULE.—The entitlement of any State government for any entitlement period beginning on or after [July 1, 1973,] *January 1, 1977*, shall be reduced by the amount (if any) by which—

(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

[(B) the similar aggregate amount for the one-year period beginning July 1, 1971.]

(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.

(2) ADJUSTMENT WHERE STATE ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If the State government establishes to the satisfaction of the Secretary that since June 30, 1972, it has assumed responsibility for a category of expenditures which (before July 1, 1972) was the responsibility of local governments located in such State, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the one-year period [beginning July 1, 1971,] *utilized for purposes of such paragraph* it transferred to units of local government.

(3) ADJUSTMENT WHERE NEW TAXING POWERS ARE CONFERRED UPON LOCAL GOVERNMENTS.—If a State establishes to the satisfaction of the Secretary that since June 30, 1972, one or more units of local government within such State have had conferred upon them new taxing authority, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent of the larger of—

(A) an amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

(B) an amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments.

No amount shall be taken into consideration under subparagraph (A) if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the

State is determined by the Secretary to have decreased a related State tax.

(4) SPECIAL RULE FOR PERIOD BEGINNING JULY 1, 1973.—In the case of the entitlement period beginning July 1, 1973, the preceding entitlement period for purposes of paragraph (1)(A) shall be treated as being the one-year period beginning July 1, 1972.

(5) SPECIAL RULE FOR PERIOD BEGINNING JULY 1, 1976.—In the case of the entitlement period beginning July 1, 1976, and ending December 31, 1976, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be one-half of the amounts which (but for this paragraph) would be taken into account.

(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.

[(6)](7) REDUCTION IN ENTITLEMENT.—If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If, thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this subtitle an amount equal to such reduction.

[(7)](8) TRANSFER TO GENERAL FUND.—An amount equal to the reduction in the entitlement of any State government which results from the application of this subsection (after any judicial review under section 143) shall be transferred from the Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

SEC. 108. ENTITLEMENTS OF LOCAL GOVERNMENTS.

(a) ALLOCATION AMONG COUNTY AREAS.—The amount to be allocated to the units of local government within a State for any entitlement period shall be allocated among the county areas located in that State so that each county area will receive an amount which bears the same ratio to the total amount to be allocated to the units of local government within that State as—

(1) the population of that county area, multiplied by the general tax effort factor of that county area, multiplied by the relative income factor of that county area, bears to

(2) the sum of the products determined under paragraph (1) for all county areas within that State.

(b) ALLOCATION TO COUNTY GOVERNMENTS, MUNICIPALITIES, TOWNSHIPS, ETC.—

(1) COUNTY GOVERNMENTS.—The county government shall be allocated that portion of the amount allocated to the county area

for the entitlement period under subsection (a) which bears the same ratio to such amount as the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area.

(2) OTHER UNITS OF LOCAL GOVERNMENT.—The amount remaining for allocation within a county area after the application of paragraph (1) shall be allocated among the units of local government (other than the county government and other than township governments) located in that county area so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

(A) the population of that local government, multiplied by the general tax effort factor of that local government, multiplied by the relative income factor of that local government, bears to

(B) the sum of the products determined under subparagraph (A) for all such units.

(3) TOWNSHIP GOVERNMENTS.—If the county area includes one or more township governments, then before applying paragraph (2)—

(A) there shall be set aside for allocation under subparagraph (B) to such township governments that portion of the amount allocated to the country area for the entitlement period which bears the same ratio to such amount as the sum of the adjusted taxes of all such township governments bears to the aggregate adjusted taxes of the county government, such township governments, and all other units of local government located in the county area, and

(B) that portion of each amount set aside under subparagraph (A) shall be allocated to each township government on the same basis as amounts are allocated to units of local government under paragraph (2).

If this paragraph applies with respect to any county area for any entitlement period, the remaining portion allocated under paragraph (2) to the units of local government located in the county area (other than the county government and the township governments) shall be appropriately reduced to reflect the amounts set aside under subparagraph (A).

(4) INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—If within a county area there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying paragraph (1) there shall be allocated to such tribe or village a portion of the amount allocated to the county area for the entitlement period which bears the same ratio to such amount as the population of that tribe or village within that county area bears to the population of that county area. If this paragraph applies with respect to any county area for any entitlement period, the amount to be allocated under paragraph (1) shall be appropriately reduced to reflect the amount allocated under the preceding sentence. If the entitlement of any such tribe or village is waived for any entitlement period by the governing body of that tribe or village,

then the provisions of this paragraph shall not apply with respect to the amount of such entitlement for such period.

(5) RULE FOR SMALL UNITS OF GOVERNMENT.—If the Secretary determines that in any county area the data available for any entitlement period are not adequate for the application of the formulas set forth in paragraphs (2) and (3)(B) with respect to units of local government (other than a county government) with a population below a number (not more than 500) prescribed for that county area by the Secretary, he may apply paragraph (2) or (3)(B) by allocating for such entitlement period to each such unit located in that county area an amount which bears the same ratio to the total amount to be allocated under paragraph (2) or (3)(B) for such entitlement period as the population of such unit bears to the population of all units of local government in that county area to which allocations are made under such paragraph. If the preceding sentence applies with respect to any county area, the total amount to be allocated under paragraph (2) or (3)(B) to other units of local government in that county area for the entitlement period shall be appropriately reduced to reflect the amounts allocated under the preceding sentence.

(6) ENTITLEMENT.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under this subsection (after taking into account any applicable modification under subsection (c)).

(B) MAXIMUM AND MINIMUM PER CAPITA ENTITLEMENT.—Subject to the provisions of subparagraphs (C) and (D), the per capita amount allocated to any county area or any unit of local government (other than a county government) within a State under this section for any entitlement period shall not be less than 20 percent, nor more than 145 percent, of two-thirds of the amount allocated to the State under section 106, divided by the population of that State.

(C) LIMITATION.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of (i) such government's adjusted taxes, and (ii) the intergovernmental transfers of revenue to such government (other than transfers to such government under this subtitle).

(D) ENTITLEMENT LESS THAN $200, OR GOVERNING BODY WAIVES ENTITLEMENT.—If (but for this subparagraph) the entitlement of any unit of local government below the level of the county government—

(i) would be less than $200 for any entitlement period ($100 for an entitlement period of 6 months, *$150 for an entitlement period of 9 months*), or

(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such unit is located.

(7) ADJUSTMENT OF ENTITLEMENT.—

(A) IN GENERAL.—In adjusting the allocation of any county area or unit of local government, the Secretary shall make any adjustment required under paragraph (6)(B) first, any adjustment required under paragraph (6)(C) next, and any adjustment required under paragraph (6)(D) last.

(B) ADJUSTMENT FOR APPLICATION OF MAXIMUM OR MINIMUM PER CAPITA ENTITLEMENT.—The Secretary shall adjust the allocations made under this section to county areas or to units of local governments in any State in order to bring those allocations into compliance with the provisions of paragraph (6)(B). In making such adjustments he shall make any necessary adjustments with respect to county areas before making any necessary adjustments with respect to units of local government.

(C) ADJUSTMENT FOR APPLICATION OF LIMITATION.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be added to and increase the entitlement of the State government of the State in which that unit of local government is located; and

(ii) in the case of a county government, shall be added to and increase the entitlement of the State government of the State in which it is located.

(c) SPECIAL ALLOCATION RULES.—

(1) OPTIONAL FORMULA.—A State may by law provide for the allocation of funds among county areas, or among units of local government (other than county governments), on the basis of the population multiplied by the general tax effort factors of such areas or units of local government, on the basis of the population multiplied by the relative income factors of such areas or units of local government, or on the basis of a combination of those two factors. Any State which provides by law for such a variation in the allocation formula provided by subsection (a), or by paragraphs (2) and (3) of subsection (b), shall notify the Secretary of such law not later than 30 days before the beginning of the first entitlement period to which such law is to apply. Any such law shall—

(A) provide for allocating 100 percent of the aggregate amount to be allocated under subsection (a), or under paragraphs (2) and (3) of subsection (b);

(B) apply uniformly throughout the State; and

(C) apply during the period beginning on the first day of the first entitlement period to which it applies and ending on [December 31, 1976.] *September 30, 1980.*

(2) CERTIFICATION.—Paragraph (1) shall apply within a State only if the Secretary certifies that the State law complies with the requirements of such paragraph. The Secretary shall not

certify any such law with respect to which he receives notification later than 30 days prior to the first entitlement period during which it is to apply.

(d) GOVERNMENTAL DEFINITIONS AND RELATED RULES.—For purposes of this title—

[(1) UNITS OF LOCAL GOVERNMENT.—The term "unit of local government" means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.]

(1) UNIT OF LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term "unit of local government" means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services: (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance; (M) mass transportation; and (N) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaska Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since

January 1, 1976, and continues to provide two or more such public services.

(2) CERTAIN AREAS TREATED AS COUNTIES.—In any State in which any unit of local government (other than a county government) constitutes the next level of government below the State government level, then, except as provided in the next sentence, the geographic area of such unit of government shall be treated as a county area (and such unit of government shall be treated as a county government) with respect to that portion of the State's geographic area. In any State in which any county area is not governed by a county government but contains two or more units of local government, such units shall not be treated as county governments and the geographic areas of such units shall not be treated as county areas.

(3) TOWNSHIPS.—The term "township" includes equivalent subdivisions of government having different designations (such as "towns"), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

(4) UNITS OF LOCAL GOVERNMENT LOCATED IN LARGER ENTITY.—A unit of local government shall be treated as located in a larger entity if part or all of its geographic area is located in the larger entity.

(5) ONLY PART OF UNIT LOCATED LARGER ENTITY.—If only part of a unit of local government is located in a larger entity, such part shall be treated for allocation purposes as a separate unit of local government, and all computations shall, except as otherwise provided in regulations, be made on the basis of the ratio which the estimated population of such part bears to the population of the entirety of such unit.

(6) BOUNDARY CHANGES, GOVERNMENTAL REORGANIZATION, ETC.—If, by reason of boundary line changes, by reason of State statutory or constitutional changes, by reason of annexations or other governmental reorganizations, or by reason of other circumstances, the application of any provision of this section to units of local government does not carry out the purposes of this subtitle, the application of such provision shall be made, under regulations prescribed by the Secretary, in a manner which is consistent with such purposes.

SEC. 109. DEFINITIONS AND SPECIAL RULES FOR APPLICATION OF ALLOCATION FORMULAS.

(a) IN GENERAL.—For purposes of this subtitle—

(1) POPULATION.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

(2) URBANIZED POPULATION.—Urbanized population means the population of any area consisting of a central city or cities of 50,000 or more inhabitants (and of the surrounding closely settled territory for such city or cities) which is treated as an urbanized area by the Bureau of the Census for general statistical purposes.

(3) INCOME.—Income means total money income received from all sources, as determined by the Bureau of the Census for general statistical purposes.

(4) PERSONAL INCOME.—Personal income means the income of individuals, as determined by the Department of Commerce for national income accounts purposes.

(5) DATES FOR DETERMINING ALLOCATIONS AND ENTITLEMENTS.—Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

(6) INTERGOVERNMENTAL TRANSFERS.—The intergovernmental transfers of revenue to any government are the amounts of revenue received by that government from other governments as a share in financing (or as reimbursement for) the performance of governmental functions, as determined by the Bureau of the Census for general statistical purposes.

(7) DATA USED; UNIFORMITY OF DATA.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

(B) USE OF ESTIMATES, ETC.—Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he may use such additional data (including data based on estimates) as may be provided for in regulations.

(b) INCOME TAX AMOUNT OF STATES.—For purposes of this subtitle—

(1) IN GENERAL.—The income tax amount of any State for any entitlement period is the income tax amount of such State as determined under paragraphs (2) and (3).

(2) INCOME TAX AMOUNT.—The income tax amount of any State for any entitlement period is 15 percent of the net amount collected from the State individual income tax of such State during 1972 or (if later) during the last calendar year ending before the beginning of such entitlement period.

(3) CEILING AND FLOOR.—The income tax amount of any State for any entitlement period—

(A) shall not exceed 6 percent, and

(B) shall not be less than 1 percent,

of the Federal individual income tax liabilities attributed to such State for taxable years ending during 1971 or (if later) during the last calendar year ending before the beginning of such entitlement period.

(4) STATE INDIVIDUAL INCOME TAX.—The individual income tax of any State is the tax imposed upon the income of individuals by such State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954.

(5) FEDERAL INDIVIDUAL INCOME TAX LIABILITIES.—Federal individual income tax liabilities attributed to any State for any period shall be determined on the same basis as such liabilities are determined for such period by the Internal Revenue Service for general statistical purposes.

(c) GENERAL TAX EFFORT OF STATES.—

(1) IN GENERAL.—For purposes of this subtitle—

(A) GENERAL TAX EFFORT FACTOR.—The general tax effort factor of any State for any entitlement period is (i) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by (ii) the aggregate personal income (as defined in paragraph (4) of subsection (a)) attributed to such State for the same period.

(B) GENERAL TAX EFFORT AMOUNT.—The general tax effort amount of any State for any entitlement period is the amount determined by multiplying—

(i) the net amount collected from the State and local taxes of such State during the most recent reporting year by

(ii) the general tax effort factor of that State.

(2) STATE AND LOCAL TAXES.—

(A) TAXES TAKEN INTO ACCOUNT.—The State and local taxes taken into account under paragraph (1) are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

(B) MOST RECENT REPORTING YEAR.—The most recent reporting year with respect to any entitlement period consists of the years taken into account by the Bureau of the Census in its most recent general determination of State and local taxes made before the close of such period.

(d) GENERAL TAX EFFORT FACTOR OF COUNTY AREA.—For purposes of this subtitle, the general tax effort factor of any county area for any entitlement period is—

(1) the adjusted taxes of the county government plus the adjusted taxes of each other unit of local government within that county area, divided by

(2) the aggregate income (as defined in paragraph (3) of subsection (a)) attributed to that county area.

(e) GENERAL TAX EFFORT FACTOR OF UNIT OF LOCAL GOVERNMENT.—For purposes of this subtitle—

(1) IN GENERAL.—The general tax effort factor of any unit of local government for any entitlement period is—

(A) the adjusted taxes of that unit of local government, divided by

(B) the aggregate income (as defined in paragraph (3) of subsection (a)) attributed to that unit of local government.

(2) ADJUSTED TAXES.—

(A) IN GENERAL.—The adjusted taxes of any unit of local government are—

(i) the compulsory contributions exacted by such government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than

special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

(ii) adjusted (under regulations prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education.

(B) CERTAIN SALES TAXES COLLECTED BY COUNTIES.—In any case where—

(i) a county government exacts sales taxes within the geographic area of a unit of local government and transfers part or all of such taxes to such unit without specifying the purposes for which such unit may spend the revenues, and

(ii) the Governor of the State notifies the Secretary that the requirements of this subparagraph have been met with respect to such taxes.

then the taxes so transferred shall be treated as the taxes of the unit of local government (and not the taxes of the county government).

(f) RELATIVE INCOME FACTOR.—For purpose of this subtitle, the relative income factor is a fraction—

(1) in the case of a State, the numerator of which is the per capita income of the United States and the denominator of which is the per capita income of that State;

(2) in the case of a county area, the numerator of which is the per capita income of the State in which it is located and the denominator of which is the per capita income of that county area; and

(3) in the case of a unit of local government, the numerator of which is the per capita income of the county area in which it is located and the denominator of which is the per capita income of the geographic area of that unit of local government.

For purposes of this subsection, per capita income shall be determined on the basis of income as defined in paragraph (3) of subsection (a).

(g) ALLOCATION RULES FOR FIVE FACTOR FORMULA.—For purposes of section 106(b)(3)—

(1) ALLOCATION ON BASIS OF POPULATION.—Any allocation among the States on the basis of population shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the population of such State bears to the population of all the States.

(2) ALLOCATION ON BASIS OF URBANIZED POPULATION.—Any allocation among the States on the basis of urbanized population shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the urbanized population of such State bears to the urbanized population of all the States.

(3) ALLOCATION ON BASIS OF POPULATION INVERSELY WEIGHTED FOR PER CAPITA INCOME.—Any allocation among the States on the basis of population inversely weighted for per capita income shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as—

(A) the population of such State, multiplied by a fraction the numerator of which is the per capita income of all the States and the denominator of which is the per capita income of such State, bears to

(B) the sum of the products determined under subparagraph (A) for all the States.

(4) ALLOCATION ON BASIS OF INCOME TAX COLLECTIONS.—Any allocation among the States on the basis of income tax collections shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the income tax amount of such State bears to the sum of the income tax amounts of all the States.

(5) ALLOCATION ON BASIS OF GENERAL TAX EFFORT.—Any allocation among the States on the basis of general tax effort shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the general tax effort amount of such State bears to the sum of the general tax effort amounts of all the States.

Subtitle B—Administrative Provisions

SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION.

[(a) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary setting forth the amounts and purposes for which funds received during such period have been spent or obligated. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

[(b) REPORTS ON PLANNED USE OF FUNDS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1973, shall submit a report to the Secretary setting forth the amounts and purposes for which it plans to spend or obligate the funds which it expects to receive during such period. Such reports shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

[(c) PUBLICATION AND PUBLICITY OF REPORTS.—Each State government and unit of local government shall have a copy of each report submitted by it under subsection (a) or (b) published in a newspaper which is published within the State and has general circulation within the geographic area of that government. Each State government and unit of local government shall advise the news media of the publication of its reports pursuant to this subsection.]

SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

(a) REPORTS ON PROPOSED USE OF FUNDS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the

use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

(c) PUBLIC HEARINGS REQUIRED.—

(1) PRE-REPORT HEARING.—Not less than 7 calendar days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

(2) PRE-BUDGET HEARING.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitle A in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

(3) WAIVER.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and par-

ticipation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitle A in relation to its entire budget.

(d) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED AND ACTUAL USE REPORTS.—

(1) IN GENERAL.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall—

(A) 30 days prior to the public hearing required by subsection (c)(2)—

(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a) a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

(B) within 30 days after adoption of its budget as provided for under State or local law—

(i) publish conspiciously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitle A to the relevant functional items in such budget; and

(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

(2) WAIVER.—The povisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such

State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

(e) REPORTS PROVIDED TO THE GOVERNOR.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

(f) PLANNED USE REPORT TO AREAWIDE ORGANIZATION.—At the same time that the proposed use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).

[SEC. 122. NONDISCRIMINATION PROVISION.

[(a) IN GENERAL.—No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under subtitle A.

[(b) AUTHORITY OF SECRETARY.—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the noncompliance and shall request the Governor to secure compliance. If within a reasonable period of time the Governor fails or refuses to secure compliance, the Secretary is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law.

[(c) AUTHORITY OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.]

SEC. 122. NONDISCRIMINATION PROVISION.

(a)(1) IN GENERAL.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded

from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. The provisions of this paragraph shall be interpreted—

(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

(2) EXCEPTIONS.—

(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A.

(B) CONSTRUCTION PROJECTS IN PROGRESS.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

(b) AUTHORITY OF THE SECRETARY.—

(1) NOTICE.—Whenever there has been—

(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A;

(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle (A) that a State government or unit of local government is not in compliance with subsection (a)(1), the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request

such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

(2) VOLUNTARY COMPLIANCE.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

(3) SUSPENSION AND RESUMPTION OF PAYMENT OF FUNDS.—

(A) SUSPENSION AFTER NOTICE.—If, at the conclusion of 90 days after notification under paragraph (1)—

(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

(ii) an administrative law judge has not made a determination under paragraph (4) (A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4) (B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary, after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a) (1).

(B) RESUMPTION OF PAYMENTS SUSPENDED UNDER SUBPARAGRAPH (A).—Payment of the suspended funds shall resume only if—

(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary in accordance with paragraph (2);

(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a) (1) by such court; or

(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

(C) SUSPENSION UPON ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

(4) HEARINGS; OTHER ACTIONS.—

(A) PRELIMINARY HEARINGS.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (B) of this paragraph.

(B) COMPLIANCE HEARING.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

(5) JUDICIAL REVIEW.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

(c) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or unit of local

government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

(d) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.

SEC. 123. MISCELLANEOUS PROVISIONS.

(a) ASSURANCES TO THE SECRETARY.—In order to qualify for any payment under subtitle A for any entitlement period beginning on or after January 1, 1973, a State government or unit of local government must establish (in accordance with regulations prescribed by the Secretary, and, with respect to a unit of local government, after an opportunity for review and comment by the Governor of the State in which such unit is located) to the satisfaction of the Secretary that—

(1) it will establish a trust fund in which it will deposit all payments it receives under subtitle A;

(2) it will use amounts in such trust fund (including any interest earned thereon while in such trust fund) during such reasonable period or periods as may be provided in such regulations;

[(3) in the case of a unit of local government, it will use amounts in such trust fund (including any interest earned thereon while in such trust fund) only for priority expenditures (as defined in section 103(a)), and will pay over to the Secretary (for deposit in the general fund of the Treasury) an amount equal to 110 percent of any amount expended out of such trust fund in violation of this paragraph, unless such amount is promptly repaid to such trust fund (or the violation is otherwise corrected) after notice and opportunity for corrective action;]

(4) it will provide for the expenditure of amounts received under subtitle A only in accordance with the laws and procedures applicable to the expenditure of its own revenues;

(5) it will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established [therefor] *in conformity with subsection (c) of this section*, by the Secretary (after consultation with the Comptroller General of the United States), *and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection.*

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and

the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title (or, in the case of the Comptroller General, as the Comptroller General may reasonably require for purposes of reviewing compliance and operations under subsection (c)(2)), and

(C) make such annual and interim reports (other than reports required by section 121) to the Secretary as he may reasonably require;

(6) all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project, 25 percent or more of the costs of which project are paid out of its trust fund established under paragraph (1), will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5), and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c);

(7) individuals employed by it whose wages are paid in whole or in part out of its trust fund established under paragraph (1) will be paid wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer; and

(8) in the case of a unit of local government as defined in the second sentence of section 108(d)(1) (relating to governments of Indian tribes and Alaskan native villages), it will expend funds received by it under subtitle A for the benefit of members of the tribe or village residing in the county area from the allocation of which funds are allocated to it under section 108(b)(4).

Paragraph (7) shall apply with respect to employees in any category only if 25 percent or more of the wages of all employees of the State government or unit of local government in such category are paid from the trust fund established by it under paragraph (1).

(b) WITHHOLDING OF PAYMENTS.—If the Secretary determines that a State government or unit of local government has failed to comply substantially with any provision of subsection (a) or any regulations prescribed thereunder, after giving reasonable notice and opportunity for a hearing to the Governor of the State or the chief executive officer of the unit of local government, he shall notify the State government or unit of local government that if it fails to take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld for the remainder of the entitlement period and for any subsequent entitlement period until such time as the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall make no further payments of such amounts.

[(c) ACCOUNTING, AUDITING, AND EVALUATION.—

[(1) IN GENERAL.—The Secretary shall provide for such accounting and auditing procedures, evaluations, and reviews as may

be necessary to insure that the expenditures of funds received under subtitle A by State governments and units of local government comply fully with the requirements of this title. The Secretary is authorized to accept an audit by a State of such expenditures of a State government or unit of local government if he determines that such audit and the audit procedures of that State are sufficiently reliable to enable him to carry out his duties under this title.

[(2) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.]

(c) *ACCOUNTING, AUDITING, AND EVALUATION.—*

(1) IN GENERAL.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

(2) INDEPENDENT AUDITS.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A or D conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure independent audits are conducted in accordance with such standards, but may provide for less formal reviews of financial information, or less frequent audits, to the extent necessary to ensure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews conducted under this paragraph for inspection and reproduction as public documents.

(3) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.

(d) REPORT OF THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall

include, but not be limited to, a comprehensive and detailed analysis of the following:

(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitle A;

(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

(4) the manner in which funds distributed under subtitle A have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.

(e) PROHIBITION OF USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.

SEC. 124. COMPLAINTS AND COMPLIANCE REVIEWS.

By March 31, 1977, the Secretary shall promulgate regulations establishing—

(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

SEC. 125. PRIVATE CIVIL ACTIONS.

(a) STANDING.—Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

(b) RELIEF.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

(c) INTERVENTION BY ATTORNEY GENERAL.—In any action instituted under this section to enforce compliance with section 122(a), the At-

torney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

Subtitle C—General Provisions

SEC. 141. DEFINITIONS AND SPECIAL RULES.

(a) SECRETARY.—For purposes of this title, the term "Secretary" means the Secretary of the Treasury or his delegate. The term "Secretary of the Treasury" means the Secretary of the Treasury personally, not including any delegate.

(b) ENTITLEMENT PERIOD.—For purposes of this title, the term "entitlement period" means—

(1) The period beginning January 1, 1972, and ending June 30, 1972.

(2) The period beginning July 1, 1972, and ending December 31, 1972.

(3) The period beginning January 1, 1973, and ending June 30, 1973.

(4) The one-year periods beginning on July 1 of 1973, 1974, and 1975.

(5) The period beginning July 1, 1976, and ending December 31, 1976.

(6) The period beginning on January 1, 1977, and ending September 30, 1977.

(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979.

(c) DISTRICT OF COLUMBIA.—

(1) TREATMENT AS STATE AND LOCAL GOVERNMENT.—For purposes of this title, the District of Columbia shall be treated both—

(A) as a State (and any reference to the Governor of a State shall, in the case of the District of Columbia, be treated as a reference to the Commissioner of the District of Columbia), and

(B) as a county area which has no units of local government (other than itself) within its geographic area.

(2) REDUCTION IN CASE OF INCOME TAX ON NONRESIDENT INDIVIDUALS.—If there is hereafter enacted a law imposing a tax on income earned in the District of Columbia by individuals who are not residents of the District of Columbia, then the entitlement of the District of Columbia under subtitle A for any entitlement period shall be reduced by an amount equal to the net collections from such tax during such entitlement period attributable to individuals who are not residents of the District of Columbia. The preceding sentence shall not apply if—

(A) the District of Columbia and Maryland enter into an agreement under which each State agrees to impose a tax on income earned in that State by individuals who are residents of the other State, and the District of Columbia and

Virginia enter into an agreement under which each State agrees to impose a tax on income earned in that State by individuals who are residents of the other State, or

(B) the Congress enacts a law directly imposing a tax on income earned in the District of Columbia by individuals who are not residents of the District of Columbia.

SEC. 142. REGULATIONS.

(a) GENERAL RULE.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this title.

(b) ADMINISTRATIVE PROCEDURE ACT TO APPLY.—The rulemaking provisions of subchapter II of chapter 5 of title 5 of the United States Code shall apply to the regulations prescribed under this title for entitlement periods beginning on or after January 1, 1973.

SEC. 143. JUDICIAL REVIEW.

(a) PETITIONS FOR REVIEW.—Any State which receives a notice of reduction in entitlement under section 107(b), and any State or unit of local government which receives a notice of withholding of payments under section [104(b) or] 123(b), may, within 60 days after receiving such notice, file with the United States court of appeals for the circuit in which such State or unit of local government is located a petition for review of the action of the Secretary. A copy of the petition shall forthwith be transmitted to the Secretary; a copy shall also forthwith be transmitted to the Attorney General.

(b) RECORD.—The Secretary shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(c) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence contained in the record, shall be conclusive. However, if any finding is not supported by substantial evidence contained in the record, the court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous actions. He shall certify to the court the record of any further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence contained in the record.

(d) REVIEW BY SUPREME COURT.—The judgment of the court shall be subjetct to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

SEC. 144. AUTHORITY TO REQUIRE INFORMATION ON INCOME TAX RETURNS.

(a) GENERAL RULE.—

(1) INFORMATION WITH RESPECT TO PLACE OF RESIDENCE.—Subpart B of part II of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to income tax returns) is amended by adding at the end thereof the following new section:

"SEC. 6017A. PLACE OF RESIDENCE.

"In the case of an individual, the information required on any return with respect to the taxes imposed by chapter 1 for any period shall include information as to the State, county, municipality, and any other unit of local government in which the taxpayer (and any other individual with respect to whom an exemption is claimed on such return) resided on one or more dates (determined in the manner provided by regulations prescribed by the Secretary or his delegate) during such period."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 6017A. Place of residence."

(b) CIVIL PENALTY.—

(1) IN GENERAL.—Subchapter B of chapter 68 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 6687. FAILURE TO SUPPLY INFORMATION WITH RESPECT TO PLACE OF RESIDENCE.

"(a) CIVIL PENALTY.—If any person fails to include on his return any information required under Section 6017A with respect to his place of residence, he shall pay a penalty of $5 for each such failure, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and chapter 42 taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following:

"Sec. 6687. Failure to supply information with respect to place of residence."

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